

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraphs 6 and 7 have been amended on page 3, and new paragraph 8 is added on page 3.

Claims 1 and 7 are currently being amended.

Claims 10-13 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-13 (13 claims) are now pending in this application.

On page 2, paragraph 2, of the Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. § 102(b) as being anticipated by USPN 2,426,927 to Ganson.

Claims 1 and 7 are in independent form. Both claims 1 and 7, have been amended and now recite that the “torque indicator” comprises, including the other elements, “a range indicator on a horizontal top portion of the container”. Support for this is in paragraph 0015 and Fig. 1 of the specification as originally filed, (paragraph 0016 in the Substitute Specification attached hereto).

The range indicator on the horizontal portion of the container allows viewing the torque indicator while looking down on the container while tightening the cover rather than lifting the container to view the indicator of Ganson, element numbers 22-24.

A torque indicator, including a range indicator on a horizontal top portion of the container as required by independent claims 1 and 7, as amended, is not disclosed, taught or suggested by Ganson. Accordingly, the Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of the independent claims 1 and 7 (as amended) and dependent claims 2-6 and 8-9, which respectively depend from claim 1 and 7.

On page 2, paragraph 3, of the Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. § 102(b) as being anticipated by USPN 3,216,600 to Dreps.

Claims 1 and 7 are in independent form. Both claims 1 and 7, have been amended and now recite that the “torque indicator” comprises, including the other elements, “a range indicator on a horizontal top portion of the container”. Support for this is in paragraph 0015 and Fig. 1 of the specification as originally filed, (paragraph 0016 in the Substitute Specification attached hereto).

The range indicator on the horizontal portion of the container allows viewing the torque indicator while looking down on the container while tightening the cover rather than lifting the container to view the indicator of Dreps, the arrows which merely show position of the cap on the bottle and not an indicator of torque.

A torque indicator, including a range indicator on a horizontal top portion of the container as required by independent claims 1 and 7, as amended, is not disclosed, taught or suggested by Dreps. Accordingly, the Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of the independent claims 1 and 7 (as amended) and dependent claims 2-6 and 8-9, which respectively depend from claim 1 and 7.

On page 2, paragraph 4, of the Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. § 102(b) as being anticipated by USPN 4,335,074 to Bernas.

Claims 1 and 7 are in independent form. Both claims 1 and 7, have been amended and now recite that the “torque indicator” comprises, including the other elements, “a range indicator on a horizontal top portion of the container”. Support for this is in paragraph 0015 and Fig. 1 of the specification as originally filed, (paragraph 0016 in the Substitute Specification attached hereto).

The range indicator on the horizontal portion of the container allows viewing the torque indicator while looking down on the container while tightening the cover rather than lifting the container to view the indicator of Bernas, elements 62 and 62 of Fig. 1a..

A torque indicator, including a range indicator on a horizontal top portion of the container as required by independent claims 1 and 7, as amended, is not disclosed, taught as suggested by Bernas. Accordingly, the Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of the independent claims 1 and 7 (as amended) and dependent claims 2-6 and 8-9, which respectively depend from claim 1 and 7.

On page 3, paragraph 6 of the Office Action, the Examiner has rejected claims 2-6, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Dreps in view of Tang, et al (USPN: 5,356,012).

Dependent claims 2-6 depend from independent claim 1 (as amended). Dependent claims 8 and 9 depend from independent claim 7 (as amended). As previously discussed, the Applicant has amended independent claims 1 and 7 to recite the combination and subject matter that the Applicant believes to be allowable. Applicant submits that there is no teaching, suggestion or motivation in either Dreps or Tang to combine them to obtain that which is disclosed and claimed in the present application.

Accordingly, Applicant submits that the rejection under 35 U.S.C. § 103(a) have been overcome and that dependent claims 2-6 as they depend from independent claim 1 (as amended) and claims 8 and 9 which depend from independent claim 7 (as amended) are now allowable. See 35 U.S.C. § 112, paragraph 4. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection of claims 2-6, 8 and 9 under 35 U.S.C. § 103(a) in view of Dreps and Tang.

On page 4, paragraph 7 of the Office Action, the Examiner has rejected claims 2-6, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Ganson in view of USPN: 5,356,012 to Tang, et al.

Dependent claims 2-6 depend from independent claim 1 (as amended). Dependent claims 8 and 9 depend from independent claim 7 (as amended). As previously discussed, the Applicant has amended independent claims 1 and 7 to recite the combination and subject matter that the Applicant believes to be allowable. Applicant submits that there is no teaching, suggestion or motivation in either Ganson or Tang to combine them to obtain that which is disclosed and claimed in the present application.

Accordingly, Applicant submits that the rejection under 35 U.S.C. § 103(a) have been overcome and that dependent claims 2-6 as they depend from independent claim 1 (as amended) and claims 8 and 9 which depend from independent claim 7 (as amended) are now allowable. See 35 U.S.C. § 112, paragraph 4. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection of claims 2-6, 8 and 9 under 35 U.S.C. § 103(a) in view of Ganson and Tang.

On page 4, the Examiner also comments with respect to the range indicator being elongated as claimed in claims 5, 6 and 9 being equivalent to the range indicator disclosed in Ganson. Applicant respectfully traverses the Examiner's characterization of the present elongated range indicator as being equivalent to Ganson. Specifically, the elongated range indicator as disclosed and claimed in the present application provides a visual indication of the amount of torque being applied to the cover. The narrow end of the range indicator is indicative of less torque and the wider end of the range indicator is indicative of a higher torque being applied to the cover. In contrast, Ganson merely has marks on the side of the bottle without any indication as to the amount of torque being applied. Therefore, Applicant submits that the marks on the Ganson bottle are not the equivalent of the elongated range indicator disclosed and claimed in the present application.

Applicant has added new independent claim 10 and dependent claims 11-13 to provide claims of varying scope. Applicant believes the new claims 10-13 recite a combination of subject matter that is allowable in view of the cited references. Accordingly, the Applicant respectfully requests allowance of new claims 10-13. Applicant has added a new summary paragraph (0008 of the Substitute Specification) to reflect the new claim set. The Substitute Specification is filed because of the new paragraphs and paragraph numbers. No new matter has been added.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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